INTELLECTUAL PROPERTY
OFFICE OF THE PHILIPPINES

**IPOPHL MEMORANDUM CIRCULAR NO. 2020-024**

**SUBJECT: COPYRIGHT RULES AND REGULATIONS FOR THE GOVERNMENT**

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WHEREAS, Section 13, Article XIV of the 1987 Constitution declares that "[t]he State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law";

WHEREAS, the State enacted Republic Act No. 8293, the Intellectual Property Code of the Philippines (IP Code), as amended, in pursuit the above policy;

WHEREAS, the government itself, through its branches, agencies and instrumentalities, is a creator of works which, although not copyright-protected, enjoy certain protections pursuant to Section 176 of the IP Code under the concept of "works of the government";

WHEREAS, government, through its branches, agencies and instrumentalities, also utilizes works belonging to other agencies, entities and individuals, both public and private;

WHEREAS, there is a need to clarify the rights and duties of government in relation to the creation, utilization and protection of works protected under the IP Code;

WHEREAS, Sec. 7.1(a) of the IP Code grants the Director General the power to manage and direct all functions and activities of the IPOPHL including the promulgation of rules and guidelines to implement the objectives, policies, plans, programs and projects of the Office;

NOW, THEREFORE, in view of the foregoing, the following rules and regulations are hereby adopted and promulgated.

## RULE I
## PRELIMINARY PROVISIONS

**Section 1. *Short Title.*** – These Rules and Regulations shall be known and referred to as the "Copyright Rules for the Government."

**Section 2. *Scope.*** — These Rules shall apply to all works created or used by the Government of the Philippines as defined herein, but excludes works covered by Republic Act No.10055, otherwise known as the "Technology Transfer Act of 2009."

**Section 3. *Definitions.*** — For purposes of these Rules, the following terms shall have the meanings provided below:

a. "Fair Use" – the use of a copyrighted work for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes. In determining whether the use made of a work in any particular case is fair use, the factors to be considered shall include: (i) The purpose and

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character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes; (ii) The nature of the copyrighted work; (iii) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (iv) The effect of the use upon the potential market for or value of the copyrighted work.

b. *"Government"* — refers to those offices within the scope of the Civil Service, particularly the legislative, executive, and judicial branches, and the subdivisions, instrumentalities, and agencies of the Government of the Philippines, including government-owned or controlled corporations with original charters, the Armed Forces of the Philippines, and the Civil Service Commission, Commission on Elections, and Commission on Audit, as well as other offices and bodies created by the Constitution, other chartered institutions including state universities and colleges, and local/community colleges;

c. *"Moral Rights"* – refers to the rights of an author: (i) To require that the authorship of the works be attributed to him, in particular, the right that his name, as far as practicable, be indicated in a prominent way on the copies, and in connection with the public use of his work; (ii) To make any alterations of his work prior to, or to withhold it from publication; (iii) To object to any distortion, mutilation or other modification of, or other derogatory action in relation to, his work which would be prejudicial to his honor or reputation; and (iv) To restrain the use of his name with respect to any work not of his own creation or in a distorted version of his work.

d. *"Officer of the Government"* — refers to a person holding office in the Philippine Government, either in the career or non-career service, by direct provision of law, popular election, or appointment by a competent authority under a permanent, temporary, substitute, co-terminus, fixed-term, contractual, or casual employment status. It is used herein as synonymous to the term "government employee";

e. *"Regularly prescribed official duties"* —refers to the duties and responsibilities stated in an employee's or officer's Civil Service Commission Memorandum Circular (CSC MC) Form No. 1, otherwise known as the "Position Description Form," including functions related thereto.

f. *"Work of the Government"* — a work created by an officer or employee of the Philippine Government or any of its subdivisions and instrumentalities, including government-owned or controlled corporations, as a part of the officer or employee's regularly prescribed official duties;

## RULE II
## THE GOVERNMENT AS CREATOR AND USER OF WORKS

**Section 4.** ***The Government as Creator of Works.*** – The Government, through its branches, agencies and instrumentalities, may be a creator ofworks.

**4.1** *No copyright on works of the Government.* — No copyright shall subsist in any work of the Government created by an officer or employee thereof as a part of his or her regularly prescribed official duties, as defined above. However, this does not create the requirement that such work be made publicly available without restrictions nor does this preclude the Government or any of its agencies from asserting protection in countries where copyright is provided for government works.

While the government does not own the copyright to a work of any of its officers or employees when such work was created as a part of the regularly prescribed official duties of the latter, the government is not precluded from exercising proprietary rights over the work against any party.

**4.2** *Works created by a government employee or for the Government by a non-government employee. —*

a. Notwithstanding the immediately preceding Subsection, copyright subsists in the following works which, due to the nature and circumstances of their creation, are not considered works of the Government:

   1. Works that are not part of the regularly prescribed official duties of a government employee; or

   2. Works made for the Government by an author who is not a government employee. This includes works created by a consultant.

b. Unless the author of the works mentioned in Sec. 4.2 (a) paragraphs 1 and 2 above transfers the copyright over the work to the Government in accordance with the provisions of Section 180 of the IP Code, the author remains as the owner of the copyright.

**4.3** *Use and Exploitation of Works of the Government.* — Any natural or juridical person, association, entity, or institution may use and exploit the works of the Philippine government; *Provided*, that prior approval is obtained in the following instances:

a. From the government agency or office wherein the work is created, for exploitation of such work for profit. The agency or office may impose as a condition the payment of reasonable fees akin to royalties;

b. From both the government agency and the private author in case of works of joint authorship if such work will be exploited for profit;

c. From the government agency or office where the government is the transferee of copyright through assignment, bequest or otherwise; and

d. From the authors of speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings of public character, for the purpose of making a collection thereof.

**4.4** *When Prior Approval Not Needed.* — Except for the specific and limited purpose of making a collection thereof, as mentioned in Section 4.3.d above, no prior approval or conditions shall be required for the use of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings of public character.

**Section 5.** ***The Government as User of Works.*** – The Government may be a user of works belonging to other agencies, entities and individuals, both public and private.

**5.1** *Prior Permission.* – If copyright subsists over a work that is to be used by the Government, permission shall first be sought by the latter from the owner or assignee

of the copyright. Likewise, prior permission shall be obtained for the use by a government agency of a work belonging to another agency.

**5.2** *Statutory Fair Use.* — The use of a work by the Government or under its direction or control is considered as statutory fair use and does not constitute copyright infringement under the following conditions:

a. When the use is in the interest of the public; and

b. When the use is compatible with fair use.

**5.3** *Moral rights.* — In the use by the Government of works, the moral rights of authors as provided in Sec. 193 of the IP Code shall be respected.

## RULE III
## THE GOVERNMENT AS ASSIGNEE OF COPYRIGHT

**Section 6.** ***The Government as Assignee or Holder of Copyright.*** — The Government is not precluded from receiving and holding copyright transferred to it by assignment, bequest or otherwise, in accordance with the provisions of Chapter VII of the IP Code. This Rule also contemplates the assignment of works mentioned in Section 4.2 (b) hereof.

**6.1** *Rights of Government over Assigned Copyright.* — Within the scope of the assignment or license, the Government is entitled to all the rights and remedies which the assignor or licensor had with respect to the copyright, including the right to sue in its own name.

**Section 7.** ***No abridgment of copyright on work upon publication or republication by the Government.*** — Publication or republication by the Government in a public document of any work in which copyright is subsisting shall not be taken to cause any abridgment or annulment of the copyright or to authorize any use or appropriation of such work without the consent of the copyright owner.

## RULE IV
## FINAL PROVISIONS

**Section 8.** ***Amendment.*** – All rules and regulations, office orders, memoranda, circulars and memorandum circulars or parts thereof, and other issuances of the Office inconsistent with these Rules are hereby deemed repealed or amended accordingly.

**Section 9.** ***Separability*** — If any section or provision in these Rules shall be held invalid, the remaining provisions shall remain in full force and effect as completely as if the part held invalid had not been included therein.

**Section 10.** ***Furnishing of Certified Copies.*** — The IPOPHL Administrative, Financial and Human Resource Development Service Bureau is hereby directed to immediately file three (3) certified copies of these rules with the Office of the National Administrative Register of the University of the Philippines Law Center.

**Section 11.** ***Effectivity.*** – These Rules shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Done this 3rd day of JULY 2020 at Taguig City, Philippines.

**ROWEL S. BARBA**
Director General

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